

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 241117896
J. DUKE AND	)	
N. DUKE	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	Teresa Cates, CPA
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For Respondent:	Rosemary Villasenor, Senior Legal Analyst
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Duke and N. Duke (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$5,578 for the 2019 tax year.

Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellants have shown that their claim for refund for the 2019 tax year was filed within the statute of limitations.

FACTUAL FINDINGS

1. Appellants filed their 2019 California income tax return (return) on February 20, 2020.
2. FTB sent Notices of Unclaimed Nonwage Withholding Credits on February 6, 2024, and February 12, 2024, to appellants advising them that they may be entitled to non-wage withholding credits for the 2019 tax year.
3. Appellants amended their 2019 return on September 15, 2024, reporting withholding credits of \$5,578.

4. FTB treated the amended return as a claim for refund. FTB issued a notice denying the claim for refund because it determined it was barred by the statute of limitations. This timely appeal followed.

DISCUSSION

In an action for refund, the taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) Here, appellants do not dispute that the refund claim was untimely.¹ Appellants assert that the refund claim should nonetheless be granted because they initially questioned whether the notices sent to them were from FTB, they had to obtain tax forms from the title company, and appellant-husband had serious medical conditions.

It is well settled that FTB has no duty to discover, or provide notice of, a taxpayer's overpayment of income tax. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Furthermore, FTB has no duty to inform a taxpayer of the time within which a claim must be filed.² (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) Therefore, while OTA is sympathetic to appellants' argument, any confusion regarding FTB's notices and their timing do not shift appellants' burden of proof on appeal. The statute of limitations for refund claims must be strictly construed and cannot be suspended due to reasonable cause or doctrines of equity. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure, for whatever reason, to file a claim for refund within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie, supra.*)

R&TC section 19316 provides that the period for filing a claim for refund may be suspended, and therefore the filing date may be extended, if a taxpayer is "financially disabled," as defined in R&TC section 19316(b). For purposes of R&TC section 19316, financial disability exists if: (1) an individual taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months; and (2) there is no spouse/registered domestic partner or other legally authorized person who can act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) When a taxpayer

¹ California law generally requires a taxpayer to file his or her refund claim by the later of: (1) four years from the date the return was filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).)

² While FTB has no duty to inform a taxpayer, FTB did so here and included instructions to file an amended return in order to claim the withholdings.

alleges financial disability to suspend and thus extend the period to file a timely claim for refund, a physician’s affidavit must be provided that identifies the disability period when the taxpayer was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Appellants state that appellant-husband had a series of health problems and other personal circumstances that necessitated their full attention and support, which diverted their focus from their tax obligations. Unfortunately, no evidence has been provided for OTA to find appellants were “financially disabled,” as there is no affidavit from a physician that details those physical or mental impairments that prevented appellants from managing their financial affairs for a specific time period, as required by law. Moreover, appellants have not addressed the other requirement for proving financial disability—that there was no individual authorized to act on appellants’ behalf in financial matters. Accordingly, appellants have not substantiated their claim for financial disability to toll the statute of limitations.

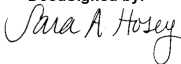
Thus, OTA lacks authority to grant relief for appellants’ untimely refund claim.

HOLDING

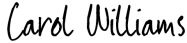
Appellants have not shown that their claim for refund for the 2019 tax year was filed within the statute of limitations.

DISPOSITION

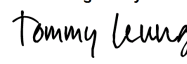
FTB’s action is sustained.

DocuSigned by:

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Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:

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Teresa A. Stanley
Administrative Law Judge

For

DocuSigned by:

0C90542BE88D4E7
Tommy Leung
Administrative Law Judge

Date Issued: 6/18/2026